IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

W.A.No.1411 of 2007

AGAINST THE JUDGEMENT IN W.P.(C).NO.6679/2007-T DATED 28/02/2007

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APPELLANT: PETITIONER:-

KWALITY POLY PRODUCTS PVT. LTD.,
MARATHAKKARA, OLLUR, THRISSUR DISTRICT
REPRESENTED BY ITS MANAGING DIRECTOR SHRI.SONY.

BY ADV. SRI.P.BALACHANDRAN (SR.)
SRI.C.M.ANDREWS

RESPONDENTS: RESPONDENTS:-

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1. THE GENERAL MANAGER,
   DISTRICT INDUSTRIES CENTRE, THRISSUR.

2. THE DIRECTOR OF INDUSTRIES & COMMERCE,
   THIRUVANANTHAPURAM.

3. THE INSPECTING ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES, THRISSUR.

4. STATE OF KERALA - REPRESENTED BY CHIEF SECRETARY,
   SECRETARIAT, THIRUVANANTHAPURAM.

BY SPECIAL GOVERNMENT PLEADER (TAXES) SRI.V.V.ASHOKAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1411 of 2007

Dated, this the 18th day of June, 2007

JUDGMENT

H.L.Dattu,C.J.

Sri.V.V.Ashokan, learned Special Government Pleader (Taxes) is directed to take notice for the respondents. He is permitted to file his memo of appearance within six weeks from today.

2. Though the matter is posted in the admission list, by consent of learned counsel appearing for the parties to the lis, the matter is taken up for final hearing.

3. The petitioner being aggrieved by the orders passed by the Director of Industries and Commerce, Thiruvananthapuram dated 30.3.2006 is before this Court in W.P.(C).No.6679 of 2007. One of the contentions raised in the writ petition is that the first appellate authority without giving an effective opportunity of hearing to the petitioner had disposed of the appeal.

4. The learned Single Judge is of the opinion that even if an opportunity had been given to the petitioner, he could not have improved his case. Therefore, though the learned Single Judge found that no sufficient opportunity was afforded to the petitioner, he was of the opinion that it would not have made any difference in the result of the appeal.

5. In our view, the reasoning and the conclusion reached by the learned Single Judge may not be justified. An opportunity of hearing before taking a decision in the appeal is a must to a party who files an appeal. Whether the same would be beneficial or not to the party is not the concern of the Court. The appeal preferred by the aggrieved persons cannot be rejected

by the respondents without giving them sufficient opportunity of hearing. If the same is done, the same would be in violation of the principles of natural justice. This aspect of the matter should have been noticed by the learned Single Judge before rejecting a reasonable request made by the petitioner. In that view of the matter, we cannot sustain the order passed by the learned Single Judge. Therefore, the following:

Order

(i) The appeal is allowed.

(ii) The judgment passed by the learned Single Judge in W.P.(C). No.6679 of 2007 dated 28.02.2007 is set aside.

(iii) Further, a direction is issued to the first appellate authority to restore appeal No.FC3/9019/03 to its file and pass appropriate orders after affording a reasonable opportunity of hearing to the appellant.

(iv) While doing so, the appellate authority shall not be influenced by any one of the observations made by the learned Single Judge in the course of the order.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/DK